



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

Number: 75-11

Date: July 9, 1975

SHORTAGES IN BOTTLED WINE

Proprietors of Bonded Wine Cellars
and Others Concerned:

Purpose. This is to inform you that an ATF Ruling will be published in the ATF Bulletin, which will provide that unexplainable shortages in bottled wine disclosed by inventory shall be regarded as unreported removals subject to tax. The ruling will read as follows:

The Bureau of Alcohol, Tobacco and Firearms has been requested to state its position in regard to the provisions of regulations covering unexplained losses in bond of bottled wine.

In establishing regulations to implement 26 U.S.C. 5370 pertaining to operations of bonded wineries, provisions were made to allow for any wine lost or destroyed while in bond, provided such losses were those considered to be usual or unavoidable in normal cellar operations. Such losses were recognized to be those caused by spillage, leakage, evaporation, soakage, and other operational losses sustained in connection with racking, filtering and other cellar operations, including bottling. 26 U.S.C. 5370(a) was implemented by regulations in 27 CFR 240.783, which provide a scale of loss percentages that may be applied to the total gallonage of wine produced, received in bond, and on hand at the beginning of the fiscal year.

The losses discussed above are of the type which can be generally expected in the production and cellar treatment of bulk wine. The quantity lost is determined when an actual inventory is taken of all untaxpaid wine and the loss is reported on Form 702 submitted for the month in which the actual inventory is taken.

With reference to bottled wine, it is recognized that breakage, fire, and other casualties, or theft, may occur after the wine has been placed in bottles. Losses from such causes, however, are immediately determinable and are not considered to be "fiscal year losses," since other provisions permit winemakers to account for and file claim for such losses. Claims covering loss due to fire, theft and other extraordinary losses may be filed under 27 CFR 240.786. Breakage should be recorded on Form 2621, Record of Bottled Wine, required under 27 CFR 240.912, or in the case of large losses due to accidental breakage,

such as may occur when a tier of palletized wine falls over in a warehouse, claims may be filed immediately under 27 CFR 240.782. It is the intent of regulations to remove any identifiable losses from inclusion within the percentage limitations of fiscal year operational losses and to permit immediate inspection of the evidence substantiating claims for such losses (See ATF Ruling 74-3, ATF C.B. 1974).

Bottled wine is not subject to losses due to spillage, leakage, soakage, evaporation and other losses normally occurring from racking and filtering, etc. Moreover, wine that has been placed in bottles can be accurately accounted for; and unexplained shortages must be regarded as evidence that unreported removals have occurred.

Held, unexplained shortages in bottled wine disclosed by inventory or otherwise, shall not be included in the normal and expected fiscal year loss percentages, as set forth in 27 CFR 240.783, but shall be regarded as unreported removals subject to tax.

Inquiries. Inquiries regarding this circular should refer to its number and be addressed to the Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N. W., Washington, D. C. 20226.

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